

**EXECUTIVE DEPARTMENT**  
**DELAWARE ECONOMIC DEVELOPMENT OFFICE**

Statutory Authority: 29 Delaware Code Sections 5005(11) and 5053(k)  
(29 **Del.C.** §§5005(11) and 5053(k))

**FINAL**

**ORDER**

**454 Procedures Governing Delaware Tourism Grant Program**

AND NOW, this 4th day of December, 2008, Judy McKinney Cherry, as Director of the Delaware Economic Development Office, in accordance with 29 **Del.C.** §§5005(11) and 10118(b), for the reasons stated below enters this ORDER adopting and promulgating Regulation No. 7 – Procedures Governing Delaware Tourism Grant Program.

**Nature of Proceedings, Synopsis of the Subject and Substance of the Proposed Regulation**

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Director of the Delaware Economic Development Office is adopting the final Regulation governing the administration and operation of the Delaware Tourism Grant Program. The proposed regulation sets forth the procedures governing the requirements, approval process and issuance of funds appropriated to the Delaware Economic Development Office to administer the Delaware Tourism Grant Program.

**Findings of Fact and Conclusions**

1. In accordance with the recommendations of the Tourism Advisory Board, the Delaware Economic Development Office has developed procedures for the administration and operation Delaware Tourism Grant Program.
2. The Regulation reflects these procedures.
3. The Director of the Delaware Economic Development Office has statutory authority to promulgate regulations pursuant to 29 **Del.C.** §5005(11).

**Decision and Order Concerning the Regulation**

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Delaware Economic Development Office does hereby ORDER that the Regulation be, and that it hereby is, adopted and promulgated as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Judy McKinney Cherry, Director, Delaware Economic Development Office

**454 Procedures Governing Delaware Tourism Grant Program**

**1.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Application"** means an application submitted to DTO on such form or forms, together with all relevant attachments, that DTO may in its sole discretion, require in connection with administration of the Grant.

**"Applicant"** means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, not for profit corporations or other legal entities, including public or governmental bodies as well as natural persons for which a Project is undertaken or proposed to be undertaken.

**"Advertising"** means, including but not limited to, any and all advertisements in brochures, newspapers, magazines and television commercials.

**"Branded Annual Campaign"** means the plan designated by DTO as its current marketing campaign.

**"DEDO"** means the Delaware Economic Development Office.

**"Direct Grant"** shall have the meaning ascribed to such term in 9.0 hereof.

**"Director"** means the Director of DEDO.

**"DTO"** means the Delaware Tourism Office, a division of DEDO.

**"Final Approval"** means the final approval of an Application by the Director or the Tourism Director in accordance with 29 **Del.C.** §5005(10).

**"Grant"** means a Direct or Matching Grant.

**"GRC"** means the Grant Review Committee consisting of representatives from DTO, the TAB, the Governor's Tourism Advisory Board and/or the Tourism House Committee of the General Assembly of the State.

**"Matching Grant"** shall have the meaning ascribed to such term in 10.0 hereof.

**"PAT"** means Public Accommodation Tax pursuant to Chapter 61 of Title 30 of the **Delaware Code.**

**"Project or Projects"** means any activity which is designed to enhance or promote the State as a destination for tourists and other travelers.

**"Promotional Material"** means, including but not limited to, any and all maps, brochures, travel guides, websites or online marketing created (both printed and electronic) for the Project.

**"State"** means the State of Delaware.

**"TAB"** means the Tourism Advisory Board created by 29 **Del.C.** §5008.

**"Tourism Director"** means the director of DTO.

## **2.0 Enabling Legislation**

- 2.1 Pursuant to 29 **Del.C.** §5003, DEDO was established. Pursuant to 29 **Del.C.** §5008 the TAB was established. DEDO has authority to make regulations pursuant to 29 **Del.C.** §5005(11).

## **3.0 Purpose**

- 3.1 The purpose of this Regulation is to establish criteria for the administration of the Direct and Matching Grants. The Regulations contain procedures governing the process for applying to DTO for economic assistance under the Direct and Matching Grants, pre-closing and post-closing procedures and criteria for the approval or disapproval of an Application.

## **4.0 Grant Terms**

- 4.1 Length of Term. Funded Grant Projects shall have a maturity of no more than two (2) years.
- 4.2 Payments. The Direct and Matching Grant programs are reimbursement programs. The initial payment will be made based on the awarded amount and length of Grant term. Further payments will be paid upon timely receipt of required reports, proof of completion of the Project to date and submission of invoices supporting the expenditure of the funds appropriated. To receive final payment the Project must be completed.
- 4.3 Reporting. Final and quarterly reports, as required by DTO, must be submitted to DTO starting immediately after the effective date of signed Grant agreement. These reports will be required until the

Project is completed. Reports will be submitted along with copies of invoices, copies of checks for payment to invoices along with copies of checks for such invoices.

- 4.4 Repayment. Clawback Provision - DTO shall determine, in its sole discretion, appropriate clawback provisions for each Applicant under which the Applicant may be required to repay some or all of the Grant funds.

## **5.0 Non-Use Of Funds**

- 5.1 Based on the Project, other restrictions on the use of the funds may be added at the time of the award.
- 5.2 Funds may not be used for general operating expenses, including staff salaries, overhead or personnel expenses.
- 5.3 Funds may not be used for administrative expenses, including any commissions, fees or other expenses for administration of the Project.
- 5.4 Funds may not be used for food and beverages.
- 5.5 Funds may not be used for equipment purchase or rental unless it is specifically related to the project.
- 5.6 Funds may not be used for business directories.
- 5.7 Funds may not be used for postage, shipping and office supplies.
- 5.8 Funds may not be used for meeting expenses.
- 5.9 Funds may not be used for website domain registration or hosting.
- 5.10 Funds may not be used for any purpose in violation of Federal, State or local law.

## **6.0 Application Procedure**

- 6.1 Before submitting an Application, it is recommended that the Applicant consult with DTO to determine if the Project is eligible for consideration.
- 6.2 Applicants forms may obtained by downloading it from our website <http://dedo.delaware.gov> or by contacting the Delaware Tourism Office, 99 Kings Highway, Dover, DE 19901. Phone (302) 739-4271.
- 6.3 Direct or Matching applications must be delivered or mailed to the Delaware Tourism Office, 99 Kings Highway, Dover, DE 19901. Faxed or emailed applications will not be accepted.

## **7.0 Application Requirements**

- 7.1 All Grant Applications must be completed on the required forms together with all relevant attachments, that DTO may in its sole discretion require. Incomplete Applications will not be considered.
- 7.2 Submit four (4) complete copies of each Grant.
- 7.3 Additional Application requirements for Direct and Matching Performance Grants are listed in 9.0 and 10.0 hereof.
- 7.4 Applications must include a completed marketing plan and budget for the Project.
- 7.5 Applications must include an out of state distribution plan for the Project.

## **8.0 Award Process**

- 8.1 When an Application is complete to the satisfaction of DTO, DTO will evaluate the Project.
- 8.2 After completing the evaluation, a determination shall be made by the GRC regarding the merits of the request.
- 8.3 The GRC shall use its reasonable best efforts to complete the award process based on the schedule set up by DTO.
- 8.4 Criteria
- 8.4.1 The Applicant must demonstrate their Project supports the Branded Annual Campaign. Awards will be based on the Applicant's ability to communicate a plan that the GRC believes is possible and has the potential to increase the value of tourism within the State.

- 8.4.2 The Project must be directed toward attracting new or retaining out-of-state visitors and overnight business. A tracking mechanism must be in place to measure the return on investment for visitation or overnight stays.
- 8.5 At the sole discretion of the DTO, it may be necessary for the grant applicants to make an oral presentation to the GRC.
- 8.6 Upon recommendation by the GRC, the Application shall be submitted for Final Approval or disapproval.
- 8.7 Final Approval shall constitute official action on the part of DTO demonstrating its intent to authorize the issuance of the requested financial assistance. Final Approval will be binding on DTO provided, however, that DTO may withdraw Final Approval at any time prior to disbursement of financial assistance, if it determines that (1) the Applicant's circumstances have changed adversely since the date of Final Approval or since completion of the Application, if such adverse change did not come to DTO's attention prior to Final Approval or (2) the Application contained a statement that was materially false or failed to include information necessary to prevent the Application from being materially false.
- 8.8 Final Approval will be effective for a period not to exceed two (2) year, and all funds committed for a Project must be completely dispersed by the DTO within that time. DTO, in its sole discretion, may make limitations or grant extensions with respect to this three-year period.
- 8.9 The Applicant shall be issued a commitment letter outlining the terms and conditions of the Final Approval. When the commitment letter has been accepted by the Applicant and returned to DTO, and all required documentation is prepared in form and content satisfactory to DTO, a closing is scheduled and financial assistance is made available to the Applicant.

## **9.0 Direct Grant Program**

### 9.1 Program Description

- 9.1.1 The purpose of this Grant is to attract visitors to the State and to bring in overnight business which contributes to PAT. The goal of the program is to increase the value and visibility of the State's tourism product. All Projects must support the Branded Annual Campaign.

### 9.2 Eligibility Standards

- 9.2.1 To be eligible, Applicants must have a marketing plan and budget plan including the incorporation of the Branded Annual Campaign.
- 9.2.2 Only Applicant's licensed to do business in the State may apply. Out of state entries are eligible, however the Direct Grant recipient must be a tourism entity located within the State.
- 9.2.3 The same Applicant may apply for more than one Direct Grant however, not for the same Project or while there is an awarded Grant for the same Project still active.
- 9.2.4 The same Applicant may not apply for a Direct and Matching Grant for the same Project at the same time.
- 9.2.5 Applicants may not apply for a Direct Grant if Grant requirements were not met in the previous fiscal years.

### 9.3 Application Categories:

- 9.3.1 Promotional Materials or Advertising.
- 9.3.2 Photography and Video Production, including but not limited to, CD's, DVD's or television commercials.

### 9.4 Direct Grant Requirements

- 9.4.1 The Project must be directed toward attracting new out-of state visitors and overnight business. A tracking mechanism must be in place to measure the return on investment for visitation or overnight stays.
- 9.4.2 "Funded in part by the Delaware Tourism Office", DTO's web site address, phone number and logo must appear on all Promotional Materials and Advertising.
- 9.4.3 The Project must target one of the niche markets that have been identified in the Branded Annual Campaign.

## **10.0 Matching Grant Program**

### **10.1 Program Description**

10.1.1 The purpose of this program is to attract visitors to the State and to bring in overnight business which contributes to PAT. The goal of the program is to increase the value and visibility of the State's tourism product. All Projects must include at least one lodging taxpaying property in order to promote overnight business to the State. All Projects must support the Branded Annual Campaign.

### **10.2 Eligibility Standards**

10.2.1 To be eligible, Applicants must have a marketing plan and budget plan including the incorporation of the Branded Annual Campaign.

10.2.2 Only Applicant's licensed to do business in the State may apply. Out of state entries are eligible, however the Matching Grant recipient must a tourism entity located within the State.

10.2.3 The same Applicant may apply for more than one Matching Grant however, not for the same Project or while there is an awarded Grant for the same Project still active.

10.2.4 The same Applicant may not apply for a Matching and Direct Grant for the same Project at the same time.

10.2.5 Applicants may not apply for a Matching Grant if Grant requirements were not met in the previous fiscal years.

10.2.6 Grant recipients may not receive Grant funds for the same Project more than twice or while there is a "current" Grant is for the same Project.

### **10.3 Application Categories**

10.3.1 Promotional Materials or Advertising.

10.3.2 Collaboration of tourism partners to enhance individual product offerings by bundling.

10.3.3 Agreement between two or more organizations in which each agrees to furnish financial or in-kind support for a Project.

10.3.4 Tourism infrastructure, including but not limited to, signage, welcome centers, transportation services and seasonal guest transportation.

10.3.5 Tourism product development, including but not limited to, sports/special event development, new tourism businesses and enhancing existing tourism product offerings.

### **10.4 Matching Grant Requirements**

10.4.1 The Project must be directed toward attracting new out-of state visitors and overnight business.

10.4.2 Matching funds are required.

10.4.3 The Applicant's matching fund commitment is part of the Application and commitment figures must be listed on the Application.

10.4.4 The Applicant's matching fund commitment must be met for full payment of the Grant.

10.4.5 No other State Grant funds may be used for the Applicant's match.

10.4.6 A tracking mechanism must be in place to measure the return on investment for visitation or overnight stays.

10.4.7 "Funded in part by the Delaware Tourism Office", DTO's web site address, phone number and logo must appear on all Promotional Materials and Advertising.

10.4.8 The Project must target one of the niche markets that have been identified in the Branded Annual Campaign.

## **11.0 Capability Standard: Adherence to Law**

In determining whether the Project will attract visitors to the State, bring in overnight business to the State and increase the value and visibility of the State's tourism product., the Applicant shall demonstrate to DTO that the Applicant has the capability to operate and maintain such Project efficiently and that the Applicant has not been convicted of a major labor law violation or of a violation

involving moral turpitude by any agency or court of the federal government or agency or court of any state in the 2-year period immediately prior to the approval of the Applicant's Application. In this regard, DTO may, in its sole discretion, rely on a sworn affidavit of the Applicant or an officer of the Applicant or an opinion of counsel of the Applicant to such effect. If an Applicant has been convicted of such a violation, DTO, in its sole discretion, may decline to consider the Application. If requested by DTO, similar proof shall be obtained from any operator or principal user of the Project.

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